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11 Supercell Oy

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 SUPERCCELL OY,

16 Plaintiff,

17 v.

18 GREE, INC.,

19 Defendant.

Case No.: _____

**COMPLAINT FOR DECLARATORY
JUDGMENT REGARDING PATENT
NON-INFRINGEMENT AND
INVALIDITY; BREACH OF
CONTRACT**

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23 **Public Redacted Version of Document**
24 **Sought To Be Sealed**
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1 Plaintiff Supercell Oy (“Supercell”), by and through its attorneys, brings this Complaint
 2 for Breach of Contract and Declaratory Judgment against Defendant GREE, Inc. (“GREE” or
 3 “Defendant”) and alleges the following:

4 NATURE OF THE ACTION

5 1. This is an action for a declaratory judgment relating to U.S. Patent Nos. 9,597,594
 6 (the “’594 patent”); 9,636,583 (the “’583 patent”); 9,770,659 (the “’659 patent”); 9,956,481 (the
 7 “’481 patent”); 9,604,137 (the “’137 patent”) 9,968,843 (the “’843 patent”); 9,457,273 (the “’273
 8 patent”); and 9,795,873 (the “’873 Patent”) (collectively the “patents-in-suit”) arising under the
 9 Declaratory Judgment Act, 28 U.S.C. §§ 2201 and, 2202, and the patent laws of the United States,
 10 including Title 35, United States Code. Specifically, Supercell seeks a declaratory judgment of
 11 non-infringement as to the ’594, ’583, ’659, ’481, ’137, ’843, ’273, and ’873 patents. Supercell
 12 also seeks a declaratory judgment of invalidity as to the ’594, ’583, and ’659 patents. A dispute
 13 exists between Supercell and GREE. GREE has alleged that Supercell’s Clash of Clans game
 14 infringes a Japanese patent to which the ’594 patent claims priority, Supercell’s Clash Royale
 15 game infringes Japanese patents to which the ’583, ’659, ’481, ’137, and ’273 patents claim
 16 priority, Supercell’s Boom Beach game infringes a Japanese patent to which the ’843 patent
 17 claims priority, and Supercell’s Brawl Stars game infringes the ’873 patent. Supercell contends
 18 that it has the right to engage in this activity without license. Supercell thus seeks a declaration
 19 that it does not infringe the patents-in-suit and that certain patents are invalid, as noted above. An
 20 actual, substantial, and continuing justiciable controversy exists between Supercell and GREE.

21 2. This is an action for breach of contract [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]
 26 [REDACTED]
 27 [REDACTED]
 28 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The '873 patent was filed on December 13, 2016 and issued October 27, 2017. Brawl Stars was released globally December 12, 2018, and previously had been released in several countries, including Canada, as early as June 2017.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The declaratory judgment action is thus part and parcel of the breach of contract action, and arises out of GREE's breach. GREE, by refusing and failing to follow the express and agreed upon terms of the Agreement, left Supercell with no choice but to file a broad, preventative declaratory judgment action.

PARTIES

3. Supercell Oy is a corporation organized under the laws of Finland, with a principal place of business at Itämerenkatu 11-13, Helsinki, Uusimaa, 00180, Finland. Supercell maintains its principal U.S. office at 555 California St., San Francisco, California, 94104.

4. On information and belief Defendant GREE, Inc. is a corporation organized under the laws of Japan with a principal place of business at 6-10-1, Roppongi, Roppongi Hills Mori Tower Minato-Ku, Tokyo, Japan.

JURISDICTION AND VENUE

5. Supercell hereby restates and re-alleges the allegations set forth in paragraphs 1 through 4.

1 6. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202;
2 the patent laws of the United States, 35 U.S.C. § 1 et seq.; and as a breach of contract [REDACTED]

3 [REDACTED]
4 7. This Court has jurisdiction over the subject matter of this action pursuant to 28
5 U.S.C. §§ 1331, 1367, 1338(a), 2201, and 2202.

6 8. Subject matter jurisdiction is proper over the breach of contract claims as the
7 breach of contract arises from the same case or controversy as the claims arising under to 28
8 U.S.C. §§ 1331, 1338(a), 2201, and 2202. Supercell and GREE entered into a valid contract in
9 which both Parties agreed [REDACTED]

10 [REDACTED]
11 [REDACTED] Supercell does not believe that it infringes any of GREE's patents. Supercell
12 has conveyed this belief to GREE. [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 9. Personal jurisdiction over Defendant is proper in this District. [REDACTED]

21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 10. Personal jurisdiction over Defendant is proper in this District because it has
27 availed itself of the rights and benefits of the laws of California. On May 17, 2018, GREE
28 admitted in a pleading to this Court that it "transact[s] and conduct[s] business in this District and

the State of California, and [is] subject to the personal jurisdiction of this Court.” *See Supercell Oy v. GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17, 2017). GREE further admitted that this Court has personal jurisdiction over GREE, Inc. and several of its subsidiaries. *Id.* at ¶¶10-14, 16-17. On information and belief, GREE, by and through its affiliates and subsidiaries, including GREE VR Capital, LLC, GREE International Entertainment, Inc., and Funzio Games, Inc., maintains or maintained offices in the Northern District of California at 1350 Bayshore Highway, Suite 920, Burlingame, California 94010, 185 Berry Street, San Francisco, California 94107, and 642 Harrison Street, San Francisco, California 94107.

11. Personal jurisdiction over Defendant is proper in this District because Defendant has chosen to conduct business relating to the licensing and enforcement activities of its U.S. and world-wide patent portfolio within the Northern District of California. On September 12, 2016, GREE sent a letter seeking to enforce its rights in U.S. Patent Application 14/983,984 (which issued as the ’594 patent) to Supercell, whose main U.S. location is within this District. Further, GREE specifically chose counsel located within this District to represent its efforts relating to the licensing and enforcement of GREE’s patent portfolio. GREE’s lead counsel for negotiating the Agreement at issue in this litigation is located within the Northern District of California. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Furthermore, GREE retained counsel located in the Northern District of

1 California to represent it in post-grant review actions relating to the validity of the '594, '583, and
 2 '659 patents, each of which claim priority to patents identified in demand letters GREE sent to
 3 Supercell. Finally, on information and belief, GREE sent a representative from its Tokyo
 4 headquarters to attend a mediation between GREE and Supercell in the case *Supercell Oy v.*
 5 *GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17, 2017), which took place
 6 in San Francisco, California.

7 12. Personal jurisdiction over Defendant is proper in this District because it has
 8 systematic and continuous business contacts with California. GREE has systematic and
 9 continuous business contacts with the state through its distribution of mobile game applications
 10 through third-party distributors located in this district to users located within this district. GREE,
 11 by and through its affiliates and subsidiaries, including GREE VR Capital, LLC, GREE
 12 International Entertainment, Inc., Fantasy Legend Studios, Inc., and Funzio Games, Inc.,
 13 maintains or maintained offices in the Northern District of California at 1350 Bayshore Highway,
 14 Suite 920, Burlingame, California 94010, 185 Berry Street, San Francisco, California 94107, and
 15 642 Harrison Street, San Francisco, California 94107.

16 13. Venue is proper in this district under 28 U.S.C. § 1391(b) because GREE is subject
 17 to personal jurisdiction in this judicial district, [REDACTED]

18 [REDACTED]
 19 [REDACTED] and GREE has directed its business activities at this judicial district, which GREE
 20 admitted in a pleading to this Court. In addition, GREE has directed licensing and enforcement
 21 activities at this judicial district, and a substantial part of events giving rise to the claim occurred
 22 in this judicial district. As noted above, GREE sent a letter seeking to enforce its rights in U.S.
 23 Patent Application 14/983,984 (which issued as the '594 patent) to Supercell, whose main U.S.
 24 location is within this District. Further, GREE specifically chose counsel located within this
 25 District to lead its efforts relating to the licensing and enforcement of GREE's patent portfolio,
 26 [REDACTED] and defend the validity of patents at issue in this
 27 case before the Patent Trial and Appeal Board. Further, GREE sent a representative from its
 28 Tokyo headquarters to attend a mediation between GREE and Supercell in the case *Supercell Oy*

1 v. *GREE, Inc.*, 4:17-cv-05556-YGR, Dkt. No. 65, ¶10 (N.D. Cal. May 17, 2017), which took
 2 place in San Francisco, California. Finally, on information and belief, GREE, by and through its
 3 affiliates and subsidiaries, including GREE VR Capital, LLC, GREE International Entertainment,
 4 Inc., and Funzio Games, Inc., maintains or maintained offices in the Northern District of
 5 California at 1350 Bayshore Highway, Suite 920, Burlingame, California 94010, 185 Berry
 6 Street, San Francisco, California 94107, and 642 Harrison Street, San Francisco, California
 7 94107.

8 INTRADISTRICT ASSIGNMENT

9 14. Pursuant to Civil L.R. 3-2(c), this action is to be assigned on a district-wide basis
 10 because it is an intellectual property action.

11 FACTUAL BACKGROUND

12 15. Supercell hereby restates and re-alleges the allegations set forth in paragraphs 1
 13 through 15.

14 16. On March 21, 2017, the United States Patent and Trademark Office (“USPTO”)
 15 issued the ’594 patent entitled “Computer Control Method, Control Program and Computer.” The
 16 ’594 patent states on its face that it was filed on December 30, 2015 and that it was assigned to
 17 GREE, Inc. The ’594 patent claims priority to Japanese Patent Application 2013-202721, which
 18 GREE identified as being infringed by Supercell’s Clash of Clans game. A true and correct copy
 19 of the ’594 patent is attached to this Complaint as Exhibit C.

20 17. On May 2, 2017, the USPTO issued the ’583 patent entitled “Storage Medium
 21 Storing Game Program, Game Processing Method, And Information Processing Apparatus.” The
 22 ’583 patent states on its face that it was filed on Sept. 1, 2016 and that it was assigned to GREE,
 23 Inc. The ’583 patent claims priority to Japanese Patent Application 2013-116039, which GREE
 24 identified as being infringed by Supercell’s Clash Royale game. A true and correct copy of the
 25 ’583 patent is attached to this Complaint as Exhibit D.

26 18. On September 26, 2017, the USPTO issued the ’659 patent entitled “Storage
 27 Medium Storing Game Program, Game Processing Method, And Information Processing
 28 Apparatus.” The ’659 patent states on its face that it was filed on Dec. 27, 2016 and that it was

1 assigned to GREE, Inc. The '659 patent claims priority to Japanese Patent Application 2013-
2 116039, which GREE identified as being infringed by Supercell's Clash Royale game. A true
3 and correct copy of the '659 patent is attached to this Complaint as Exhibit E.

4 19. On May 1, 2018, the USPTO issued the '481 patent entitled "Server, Control
5 Method Therefor, Computer-Readable Recording Medium, and Game System." The '481 patent
6 states on its face that it was filed on Dec. 27, 2016 and that it was assigned to GREE, Inc. The
7 '481 patent claims priority to Japanese Patent Application 2013-042162, which GREE identified
8 as being infringed by Supercell's Clash Royale game. A true and correct copy of the '481 patent
9 is attached to this Complaint as Exhibit F.

10 20. On March 28, 2017, the USPTO issued the '137 patent entitled "Server, Control
11 Method Therefor, Computer-Readable Recording Medium, and Game System." The '137 patent
12 states on its face that it was filed on Nov. 2, 2015 and that it was assigned to GREE, Inc. The
13 '137 patent claims priority to Japanese Patent Application 2013-042162, which GREE identified
14 as being infringed by Supercell's Clash Royale game. A true and correct copy of the '137 patent
15 is attached to this Complaint as Exhibit G.

16 21. On May 15, 2018, the USPTO issued the '843 patent entitled "Communication
17 System, Method for Controlling Communication System, and Program." The '843 patent states
18 on its face that it was filed on Jan 24, 2014 and that it was assigned to GREE, Inc. The '843
19 patent claims priority to Japanese Patent Application 2013-017917, which GREE identified as
20 being infringed by Supercell's Boom Beach game. A true and correct copy of the '843 patent is
21 attached to this Complaint as Exhibit H.

22 22. On October 4, 2016, the USPTO issued the '273 patent entitled "Storage Medium
23 Storing Game Program, Game Processing Method, and Information Processing Apparatus." The
24 '273 patent states on its face that it was filed on May 30, 2014 and that it was assigned to GREE,
25 Inc. The '273 patent claims priority to Japanese Patent Application 2013-116039, which GREE
26 identified as being infringed by Supercell's Clash Royale game. A true and correct copy of the
27 '273 patent is attached to this Complaint as Exhibit I.

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23. On October 24, 2017, the USPTO issued the '873 patent entitled "Shooting Game Control Method and Game System." The '873 patent states on its face that it was filed on December 13, 2016 and that it was assigned to GREE, Inc. [REDACTED]

[REDACTED] true and correct copy of the '873 patent is attached to this Complaint as Exhibit P. On information and belief, GREE is the owner of all right, title, and interest in the patents-in-suit.

24. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C. §§2201 and 2202 as to each of the patents-in-suit.

25. On September 12, 2016, Naoki Yoshida from the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, former counsel for GREE, Inc., sent a letter to Iikka Paananen, CEO of Supercell Oy. In the September 12 letter, GREE identified and asserted it is the legal owner of 19 Japanese patents and U.S. Patent Application 14/983,984. The letter further notes "GREE owns patent applications currently pending in Japan, Europe, the U.S., and other countries, that are directed to on-line gaming products and plan to file more applications to protect its invention in the technical area." GREE further stated, "It has come to GREE's attention that Supercell is currently distributing at least four mobile game products worldwide: 'Boom Beach,' 'Clash of Clans,' 'Clash Royale,' and 'Hay Day.' Upon review of the products, GREE believes that these products may infringe one or more of GREE's patents and may be encompassed by the allowed claims of the U.S. patent application." GREE further asserted "GREE would rather reach a reasonable agreement with Supercell than to take on a patent fight; however, GREE is willing to take that fight on if this cannot be accomplished." Exhibit J.

26. On October 6, 2016, Michael Sacksteder of Fenwick & West LLP, attorneys for Supercell, responded to the September 12 letter, and directed GREE to correspond with Mr. Sacksteder going forward. Exhibit K.

27. On October 14, 2016, Mr. Yoshida representing GREE, wrote a letter to Mr. Sacksteder for Supercell. In the October 14 letter, GREE provided Supercell with "exemplary claim charts including English translations of GREE's Japanese patent claims." GREE further

1 asserted, “In addition to the claims in the [exemplary claim charts], we believe that other claims
2 in GREE’s patents are infringed by one or more of the Supercell products.” Exhibit L.

3 28. On December 21, 2016, Hiroyuki Hagiwara from Paul Hastings LLP, new counsel
4 for GREE, wrote an email to Mr. Sacksteder for Supercell seeking to arrange a phone call “to
5 discuss GREE’s terms for licensing.” Exhibit M.

6 29. On December 22, 2016, Mr. Hagiwara and Mr. Sacksteder spoke on the phone
7 regarding GREE’s terms for licensing GREE’s patents. Mr. Hagiwara followed the December 22
8 phone call with an email on December 22, 2016 to Mr. Sacksteder. Mr. Hagiwara attached two
9 documents to the email that comprised “a list of GREE patents GREE is currently prepared to
10 license and a set of additional claim charts.” The list of GREE patents and patent applications
11 identified Supercell’s games as “Related products” corresponding to GREE’s patents and patent
12 applications. Exhibit N.

13 30. The “list of GREE patents GREE is currently prepared to license” included
14 Japanese patent applications to which each of the patents-in-suit claim priority. *Id.*

15 31. Starting in 2017, GREE initiated a patent monetization litigation campaign in
16 Japan. In 2017 and 2018, GREE filed more than 30 preliminary injunction and formal patent
17 infringement actions against Supercell in Japan.

18 32. In response, Supercell filed patent infringement actions against GREE and its
19 subsidiaries in Japan, China, and the United States. Supercell also filed 16 petitions for post-
20 grant review, nine of which have been instituted. Post-grant review petitions have been instituted
21 as to all claims of the ’594, ’583, and ’659 patents. The Patent Trial and Appeal Board found
22 claims 1, 8, and 10–20 of the ’594 patent unpatentable under 35 U.S.C. § 101, and found that the
23 petitioner had not shown claims 2–7 and 9 to be unpatentable under § 101. The Patent Trial and
24 Appeal Board has not issued a final written decision as to the ’583 and ’659 patent.

25 33. GREE filed patent invalidity actions against Supercell in China and filed two
26 petitions for *inter partes* review in the United States.

27 34. [REDACTED]
28 [REDACTED]

FENWICK & WEST LLP
ATTORNEYS AT LAW

1 [REDACTED]
2 [REDACTED]
3 35. [REDACTED]
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5 36. [REDACTED]
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FENWICK & WEST LLP
ATTORNEYS AT LAW

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FENWICK & WEST LLP
ATTORNEYS AT LAW

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1 50. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 51. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 52. Supercell does not infringe the patents-in-suit, and the '594, '583, and '659 are
10 invalid under 35 U.S.C. §§ 101, 102, 103 and/or 112.

11 53. On information and belief, GREE may believe Supercell infringes other patents in
12 its patent portfolio. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 54. Based on the foregoing, a justiciable controversy exists between Supercell and
17 GREE as to whether Supercell infringes the patents-in-suit and whether the claims of the '594,
18 '583, and '659 patents are valid. Absent a declaration of noninfringement, invalidity, or release
19 of all claims, GREE will continue to wrongly assert the patents-in-suit against Supercell, and
20 thereby cause Supercell irreparable harm.

21 **COUNT I: DECLARATORY RELIEF REGARDING**
22 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,597,594**

23 55. Supercell restates and incorporates by reference each of the allegations set forth in
24 paragraphs 1 through 54 above, as if fully set forth herein.

25 56. GREE contends that Supercell has or is infringing one or more claims of the '594
26 patent.

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1 57. On information and belief, GREE claims to be the owner of all right, title and
2 interest in the '594 patent, including the right to assert all causes of action arising under that
3 patent and the right to any remedies for infringement of it.

4 58. Supercell does not infringe any claim of the '594 patent, directly or indirectly,
5 contributorily or otherwise, through its or its customer's activities in conjunction with any of
6 Supercell's products or services.

7 59. As set forth above, an actual and justiciable controversy exists between Supercell
8 and GREE as to Supercell's noninfringement of the '594 patent.

9 60. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
10 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
11 theory of infringement, any valid claim of the '594 patent.

12 **COUNT II: DECLARATORY RELIEF REGARDING**
13 **INVALIDITY OF U.S. PATENT NO. 9,597,594**

14 61. Supercell restates and incorporates by reference each of the allegations set forth in
15 paragraphs 1 through 60 above, as if fully set forth herein.

16 62. Upon information and belief, GREE contends all claims of the '594 patent are
17 valid.

18 63. All claims of the '594 patent are invalid for failure to comply with one or more of
19 the conditions for patentability set forth in Title 35 of the United States Code, including without
20 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

21 64. As set forth above, an actual and justiciable controversy exists between Supercell
22 and GREE as to Supercell's noninfringement of the '594 patent.

23 65. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
24 Supercell requests that this Court enter a judgment that all claims of the '594 patent are invalid
25 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
26 102, 103, and/or 112.

**COUNT III: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,636,583**

66. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 65 above, as if fully set forth herein.

67. GREE contends that Supercell has or is infringing one or more claims of the '583 patent.

68. On information and belief, GREE claims to be the owner of all right, title and interest in the '583 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

69. Supercell does not infringe any claim of the '583 patent, directly or indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with any of Supercell's products or services.

70. As set forth above, an actual and justiciable controversy exists between Supercell and GREE as to Supercell's noninfringement of the '583 patent.

71. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Supercell requests that this Court enter a judgment that Supercell does not infringe under any theory of infringement, any valid claim of the '583 patent.

**COUNT IV: DECLARATORY RELIEF REGARDING
INVALIDITY OF U.S. PATENT NO. 9,636,583**

72. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 71 above, as if fully set forth herein.

73. Upon information and belief, GREE contends all claims of the '583 patent are valid.

74. All claims of the '583 patent are invalid for failure to comply with one or more of the conditions for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

75. As set forth above, an actual and justiciable controversy exists between Supercell and GREE as to Supercell's noninfringement of the '583 patent.

1 76. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
 2 Supercell requests that this Court enter a judgment that all claims of the '583 patent are invalid
 3 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
 4 102, 103, and/or 112.

5 **COUNT V: DECLARATORY RELIEF REGARDING**
 6 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,770,659**

7 77. Supercell restates and incorporates by reference each of the allegations set forth in
 8 paragraphs 1 through 76 above, as if fully set forth herein.

9 78. GREE contends that Supercell has or is infringing one or more claims of the '659
 10 patent.

11 79. On information and belief, GREE claims to be the owner of all right, title and
 12 interest in the '659 patent, including the right to assert all causes of action arising under that
 13 patent and the right to any remedies for infringement of it.

14 80. Supercell does not infringe any claim of the '659 patent, directly or indirectly,
 15 contributorily or otherwise, through its or its customer's activities in conjunction with any of
 16 Supercell's products or services.

17 81. As set forth above, an actual and justiciable controversy exists between Supercell
 18 and GREE as to Supercell's noninfringement of the '659 patent.

19 82. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
 20 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
 21 theory of infringement, any valid claim of the '659 patent.

22 **COUNT VI: DECLARATORY RELIEF REGARDING**
 23 **INVALIDITY OF U.S. PATENT NO. 9,770,659**

24 83. Supercell restates and incorporates by reference each of the allegations set forth in
 25 paragraphs 1 through 82 above, as if fully set forth herein.

26 84. Upon information and belief, GREE contends all claims of the '659 patent are
 27 valid.
 28

1 85. All claims of the '659 patent are invalid for failure to comply with one or more of
2 the conditions for patentability set forth in Title 35 of the United States Code, including without
3 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

4 86. As set forth above, an actual and justiciable controversy exists between Supercell
5 and GREE as to Supercell's noninfringement of the '659 patent.

6 87. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
7 Supercell requests that this Court enter a judgment that all claims of the '659 patent are invalid
8 pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101,
9 102, 103, and/or 112.

10 **COUNT VII: DECLARATORY RELIEF REGARDING**
11 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,956,481**

12 88. Supercell restates and incorporates by reference each of the allegations set forth in
13 paragraphs 1 through 87 above, as if fully set forth herein.

14 89. GREE contends that Supercell has or is infringing one or more claims of the '481
15 patent.

16 90. On information and belief, GREE claims to be the owner of all right, title and
17 interest in the '481 patent, including the right to assert all causes of action arising under that
18 patent and the right to any remedies for infringement of it.

19 91. Supercell does not infringe any claim of the '481 patent, directly or indirectly,
20 contributorily or otherwise, through its or its customer's activities in conjunction with any of
21 Supercell's products or services.

22 92. As set forth above, an actual and justiciable controversy exists between Supercell
23 and GREE as to Supercell's noninfringement of the '481 patent.

24 93. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
25 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
26 theory of infringement, any valid claim of the '481 patent.

**COUNT VIII: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,604,137**

94. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 93 above, as if fully set forth herein.

95. GREE contends that Supercell has or is infringing one or more claims of the '137 patent.

96. On information and belief, GREE claims to be the owner of all right, title and interest in the '137 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

97. Supercell does not infringe any claim of the '137 patent, directly or indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with any of Supercell's products or services.

98. As set forth above, an actual and justiciable controversy exists between Supercell and GREE as to Supercell's noninfringement of the '137 patent.

99. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Supercell requests that this Court enter a judgment that Supercell does not infringe under any theory of infringement, any valid claim of the '137 patent.

**COUNT IX: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,968,843**

100. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 99 above, as if fully set forth herein.

101. GREE contends that Supercell has or is infringing one or more claims of the '843 patent.

102. On information and belief, GREE claims to be the owner of all right, title and interest in the '843 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

1 103. Supercell does not infringe any claim of the '843 patent, directly or indirectly,
2 contributorily or otherwise, through its or its customer's activities in conjunction with any of
3 Supercell's products or services.

4 104. As set forth above, an actual and justiciable controversy exists between Supercell
5 and GREE as to Supercell's noninfringement of the '843 patent.

6 105. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
7 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
8 theory of infringement, any valid claim of the '843 patent.

9 **COUNT X: DECLARATORY RELIEF REGARDING**
10 **NON-INFRINGEMENT OF U.S. PATENT NO. 9,457,273**

11 106. Supercell restates and incorporates by reference each of the allegations set forth in
12 paragraphs 1 through 105 above, as if fully set forth herein.

13 107. GREE contends that Supercell has or is infringing one or more claims of the '273
14 patent.

15 108. On information and belief, GREE claims to be the owner of all right, title and
16 interest in the '273 patent, including the right to assert all causes of action arising under that
17 patent and the right to any remedies for infringement of it.

18 109. Supercell does not infringe any claim of the '273 patent, directly or indirectly,
19 contributorily or otherwise, through its or its customer's activities in conjunction with any of
20 Supercell's products or services.

21 110. As set forth above, an actual and justiciable controversy exists between Supercell
22 and GREE as to Supercell's noninfringement of the '273 patent.

23 111. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,
24 Supercell requests that this Court enter a judgment that Supercell does not infringe under any
25 theory of infringement, any valid claim of the '273 patent.

**COUNT XI: DECLARATORY RELIEF REGARDING
NON-INFRINGEMENT OF U.S. PATENT NO. 9,457,873**

112. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 111 above, as if fully set forth herein.

113. GREE contends that Supercell has or is infringing one or more claims of the '873 patent.

114. On information and belief, GREE claims to be the owner of all right, title and interest in the '873 patent, including the right to assert all causes of action arising under that patent and the right to any remedies for infringement of it.

115. Supercell does not infringe any claim of the '873 patent, directly or indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with any of Supercell's products or services.

116. As set forth above, an actual and justiciable controversy exists between Supercell and GREE as to Supercell's noninfringement of the '873 patent.

117. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Supercell requests that this Court enter a judgment that Supercell does not infringe under any theory of infringement, any valid claim of the '873 patent.

COUNT XII: BREACH OF CONTRACT

118. Supercell restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 117 above, as if fully set forth herein.

119. [REDACTED]

120. [REDACTED]

121. [REDACTED]

1 122. [REDACTED]

3 123. [REDACTED]

6 124. As a result of Defendant's breach, Plaintiff has suffered damages, which continue
7 to accrue, in an amount to be proven at trial.

8 125. Plaintiff has been damaged in the form of in the form of loss of trade, commerce,
9 opportunity and goodwill, which are impossible to quantify.

10 126. [REDACTED]

14 **DEMAND FOR JURY TRIAL**

15 127. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Supercell hereby
16 demands trial by jury of all issues so triable.

17 **PRAYER FOR RELIEF**

18 128. WHEREFORE, Supercell respectfully requests that this Court enter
19 judgment in its favor and against GREE as follows:

20 129. Judgment in favor of Supercell and against GREE on all causes of action alleged
21 in this complaint;

22 A. For a judicial determination and declaration that Supercell has not infringed and is
23 not infringing, directly or indirectly, any claim of the patents-in-suit;

24 B. For a judicial determination and declaration that each claim of U.S. Patent Nos.
25 9,597,594; 9,636,583; and 9,770,659 is invalid;

26 C. For injunctive relief against GREE, and all persons acting on its behalf or in
27 concert with it, restraining them from further prosecuting or instituting any action against
28 Supercell or Supercell's customers claiming that the patents-in-suit are infringed or that the U.S.

Patent Nos. 9,597,594; 9,636,583; and 9,770,659 are valid, or for representing that Supercell's products or services, or that others' use thereof, infringe the patents-in-suit;

D. [REDACTED]

E. For an order finding that this is an exceptional case under 35 U.S.C. § 285 and awarding relief, including reasonable attorneys' fees, costs, and expenses;

F. For recovery of actual and compensatory damages, according to proof at trial;

G. For an award of restitution, according to proof at trial;

H. For an award of punitive damages, according to proof at trial;

I. For an award of costs, expenses and reasonable attorneys' fees incurred by Plaintiff in bringing and prosecuting this Complaint;

J. Prejudgment and post-judgment interest as provided by law; and

K. For such other and further relief as this Court may deem just and proper.

Dated: February 28, 2019

FENWICK & WEST LLP

By: /s/ Michael J. Sacksteder

Michael J. Sacksteder
Attorneys for Plaintiff
Supercell OY

FENWICK & WEST LLP
ATTORNEYS AT LAW